

Appl. No. 10/774,146
Reply to Office Action of December 14, 2005

REMARKS

Applicants appreciate the indication in the Office Action that claims 6, 7, 17, 25 and 26 recite allowable subject matter. Applicants respectfully submit the remaining pending claims are allowable for at least the compelling reasons set forth below. Applicants respectfully request reconsideration of the rejections.

Applicants hereby add new claims 35-40. Accordingly, claims 1-40 are pending in the present application.

Claims 1-5, 8-16, 18-24, and 27-34 stand rejected under 35 U.S.C. 102(e) for anticipation by U.S. Patent Publication No. 2003-0132835 to Lin et al.

Applicants respectfully traverse the rejections and urge allowance of the present application.

Referring to the 102 rejections, Applicant notes the requirements of MPEP §2131 (8th ed., rev. 3), which states that TO ANTICIPATE A CLAIM, THE REFERENCE MUST TEACH EVERY ELEMENT OF THE CLAIM. The **identical invention** must be shown in as complete detail as is contained in the claim. *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim. *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990).

As discussed in further detail below, Applicants have failed to uncover limitations of the claims within the teachings relied upon by the Office in support of the 102 rejections. In the event that the claims are not allowed, Applicants respectfully request issuance of a *non-final Action* to identify specific teachings of the prior art by reference

Appl. No. 10/774,146
Reply to Office Action of December 14, 2005

number and lines of the columns of the prior art so Applicants may appropriately respond during the prosecution of the present application.

In particular, 37 C.F.R. §1.104(c)(2) provides that *the pertinence of each reference, if not apparent, must be clearly explained and each rejected claim specified*. Further, 37 C.F.R. §1.104(c)(2) states that the Examiner must cite the best references at their command. *When a reference is complex or shows or describes inventions other than that claimed by Applicants, the particular teachings relied upon must be designated as nearly as practicable*. Applicants respectfully request clarification of the rejections with respect to specific references and specific reference teachings therein pursuant to 37 C.F.R. §1.104(c)(2) in a *non-final* Action if any claims are not found to be allowable.

Applicants also note MPEP §706.07 (8th ed., rev. 3) which states that clear issues should be developed between the examiner and applicant before a final rejection is in order. §706.07 further states that present practice does not sanction hasty and ill-considered final rejections. §706.07 also states the examiner should never lose sight of the fact that in every case the applicant is entitled to a full and fair hearing, and that a clear issue between applicant and examiner should be developed, if possible, before appeal. It is possible for the Examiner either to develop a clear issue between the Applicant by clarifying any rejections in a subsequent *non-final* Action or to allow the claims. Presently, the record for appeal is poor due to the deficiencies of the present Office Action with respect to the identification of reference teachings which allegedly disclose limitations of the claims as discussed in further detail below.

The present Action fails to follow the enumerated requirements of the CFR and MPEP. In keeping with the above discussion, Applicant respectfully requests either

Appl. No. 10/774,146
Reply to Office Action of December 14, 2005

allowance of the claims or another *non-final* Action in compliance with the above authority including identifying teachings of the prior art which are alleged to disclose limitations of Applicants' claims so Applicants may appropriately respond.

Referring to the anticipation rejection of claim 1, the Office at page 2 of the Action baldly relies upon the teachings of paragraphs 0005 and 0008 of the Summary of Invention section of Lin without identification of specific teachings therein which allegedly disclose limitations of the pending claims. For example, claim 1 recites *selecting one of a plurality of different search procedures for identifying unidentified ones of the wireless identification devices within the wireless communications range of the reader*. The Office at page 2 of the Action baldly alleges that the above-identified limitations "read on" paragraph 0005 of Lin without any explanation as to how the teachings of paragraph 0005 are considered to teach the claimed limitations. In particular, Applicants have electronically searched the Summary of Invention and Detailed Description of Lin and have failed to uncover any mention of "procedure," let alone the specifically claimed *selecting one of a plurality of different search procedures*. To the contrary, paragraph 0005 of Lin merely describes RF sensitive circuits which resonate and a transmitter for generating an acknowledgement signal for identifying the object which is devoid of selection of one of a plurality of different search procedures for identifying devices as specifically claimed. At most, paragraph 0005 merely discloses emitting the RF signal and the acknowledgement signal which fails to disclose or suggest the claimed *selecting one of the procedures let alone the selecting using identification information regarding a group of devices* as is further claimed in claim 1. Applicants refer the Examiner to the teachings of the originally filed specification

Appl. No. 10/774,146
Reply to Office Action of December 14, 2005

beginning at paragraph 0031 and the associated discussion therein regarding exemplary selection of one of a plurality of different search procedures including a binary search procedure and a walk-through search procedure according to illustrative embodiments of the specification which are merely set forth as examples of different search procedures as used in the present application. Lin fails to disclose or suggest the claimed selection of one of the different search procedures and the 102 rejection is improper for at least this compelling reason.

Furthermore, following the selection of the one of the search procedures, claim 1 further recites *identifying at least some of unidentified ones of the devices using the selected one of the search procedures*. The Office relies upon the teachings of paragraph 0005 of Lin, however, paragraph 0005 is void of teaching or suggesting the selecting of the different search procedures or the identifying using the selected one of the search procedures. Claim 1 is allowable for this additional reason.

As mentioned above, and in accordance with the CFR and MPEP, Applicants respectfully request issuance of a *non-final Action* to cure the deficiencies of the rejection of claim 1 if claim 1 is not allowed so Applicants may appropriately respond.

The claims which depend from independent claim 1 are in condition for allowance for the reasons discussed above with respect to the independent claim as well as for their own respective features which are neither shown nor suggested by the cited art.

For example, referring to claim 2, the Office relies upon the teachings of paragraph 0007 of Lin on pages 2-3 of the Action in support of the rejection again without any explanation as to how the disparate teachings of Lin are considered to

Appl. No. 10/774,146
Reply to Office Action of December 14, 2005

disclose the limitations defined in claim 2. For example, claim 2 recites that the *providing the identification information comprises determining a range of identifiers* and in conjunction with claim 1 recites that the identification information comprising the *range of identifiers is used to select the one of the plural different search procedures*. Paragraph 0007 describes varying frequency and modulation to locate different classes of objects and specific objects of the classes which fails to disclose or suggest any selection of different procedures let alone the selection of one of the different search procedures using identification information comprising a range of identifiers of the wireless identification devices. Limitations of the claim are not disclosed by the prior art and Applicants respectfully submit that the 102 rejection is improper for at least this compelling reason.

Referring to claim 3, the Office relies upon the teachings of paragraph 0005 of Lin in support of the rejection. However, paragraph 0005 is void of any teaching regarding *selecting one of a plurality of different search procedures* let alone the *selecting using identification information comprising the number of wireless identification devices which may be within the wireless communications range* as claimed. Limitations of the claim are not disclosed by the prior art and Applicants respectfully submit that the 102 rejection is improper for at least this compelling reason.

Referring to claim 4, the Office relies upon the teachings of paragraphs 0008-0009 in support of the rejection. Applicants have electronically searched Lin and have *failed to uncover any reference to maximum or minimum* in Lin let alone the *determining the number of devices comprises calculating the difference between wireless*

Appl. No. 10/774,146
Reply to Office Action of December 14, 2005

communication devices having minimum and maximum identifiers as positively claimed in claim 4. Claim 4 is allowable for this additional reason.

Referring to claim 10, the Office relies upon the teachings of paragraph 0007 in support of the rejection. However, Applicants have electronically searched Lin and have *failed to uncover any reference to backscatter let alone the claimed communicating from at least one of the devices to the reader comprises communicating using backscatter modulation*. Claim 10 is allowable for this additional reason.

As mentioned above, and in accordance with the CFR and MPEP, Applicants respectfully request issuance of a *non-final Action* to cure the deficiencies of the rejection of the dependent claims if the claims are not allowed so Applicants may appropriately respond.

Referring to independent claim 12, the Office relies upon the teachings of paragraph 0007 of Lin as allegedly disclosing the selecting recited in claim 12. The teachings of paragraph 0007 merely discloses usage of frequency to specify classes of objects and modulation to specify specific objects. The teachings of paragraph 0007 *fail to disclose or suggest a plurality of different search procedures or selection of one of the different search procedures responsive to the identifications of the first and second of the devices within the communications range of the reader* as specifically claimed. Applicants respectfully submit the anticipation rejection of claim 12 is improper for at least this reason.

Furthermore, claim 12 also recites *identifying at least one unidentified wireless identification devices within the wireless communications range using the selected one of the search procedures*. Paragraph 0005 fails to teach or suggest the claimed

Appl. No. 10/774,146
Reply to Office Action of December 14, 2005

identifying using the selected one of the search procedures as claimed. Positively recited limitations of claim 12 are not disclosed nor suggested by the prior art and claim 12 is allowable for at least this reason.

In accordance with the CFR and MPEP, Applicants respectfully request issuance of a *non-final Action* to cure the deficiencies of the rejection of claim 12 if claim 12 is not allowed so Applicants may appropriately respond.

The claims which depend from independent claim 12 are in condition for allowance for the reasons discussed above with respect to the independent claim as well as for their own respective features which are neither shown nor suggested by the cited art.

Referring to independent claim 18, the Office identifies teachings of paragraph 0008 as allegedly disclosing the claimed *first selecting one of a plurality of different search procedures for identifying the wireless identification devices of a first group*. Paragraph 0008 refers to determining location of a given object and Applicants have failed to locate any teachings of the claimed selecting one of the procedures as claimed. The Office has provided no rationale in support of the rejection. The first selecting is not disclosed not suggested by the prior art and claim 18 is allowable for at least this reason.

Perhaps even more compelling is the fact that the Action at page 6 fails to identify any teachings of the claimed *second selecting an other of the different search procedures let alone the claimed second selecting using the provided second identification information regarding a second group of devices*. These additional

Appl. No. 10/774,146
Reply to Office Action of December 14, 2005

limitations are not disclosed nor suggested by the prior art as evidenced by the failure of the Office to identify any reference teachings in support of the rejection.

Further with respect to claim 18, Lin fails to disclose or suggest the claimed *first selecting one of the procedures using the first identification information or the second selecting of the other of the procedures using the second identification information*. These additional limitations are not disclosed nor suggested by the prior art and claim 18 is allowable for this additional reason.

As mentioned above, and in accordance with the CFR and MPEP, Applicants respectfully request issuance of a *non-final Action* to cure the deficiencies of the rejection of claim 18 if claim 18 is not allowed so Applicants may appropriately respond.

The claims which depend from independent claim 18 are in condition for allowance for the reasons discussed above with respect to the independent claim as well as for their own respective features which are neither shown nor suggested by the cited art.

Referring to independent claim 20, Applicants have failed to uncover any teachings in paragraph 0007 of Lin of the claimed processing circuitry configured to *analyze a number of devices which may be present within the wireless communications range with respect to a range of identifiers of devices which may be present within the communications range*. Paragraph 0007 refers to generation of search signals having different frequencies and different modulation and fails to disclose or suggest any analysis of the number of devices which may be present with respect to the range of identifiers as claimed. The 102 rejection is improper for at least this reason.

Appl. No. 10/774,146
Reply to Office Action of December 14, 2005

At page 7 of the Action, the Office fails to identify any teachings of Lin of the claimed selection of one of a plurality of search procedures responsive to the analysis of the number of devices with respect to the range of identifiers as claimed. Applicants have failed to uncover any teachings of the selection in combination with the identification defined in claim 20 and the rejection is improper for this additional reason.

As mentioned above, and in accordance with the CFR and MPEP, Applicants respectfully request issuance of a *non-final Action* to cure the deficiencies of the rejection of claim 20 if claim 20 is not allowed so Applicants may appropriately respond.

The claims which depend from independent claim 20 are in condition for allowance for the reasons discussed above with respect to the independent claim as well as for their own respective features which are neither shown nor suggested by the cited art.

Referring to independent claim 29, the Office relies upon the teachings of paragraph 0005 of Lin as allegedly disclosing limitations of claim 29. However, Applicants have failed to uncover in paragraph 0005 the claimed first search procedure or the second search procedure different than the first search procedure. Further, Applicants have failed to uncover the reader configured to identify devices of the first and second groups using the first and second different search procedures as claimed. Claim 29 is allowable for at least this reason.

In addition to the failure of paragraph 0005 to disclose different search procedures, Applicants have also failed to uncover any teaching or suggestion of the claimed reader configured to select the first and second search procedures responsive to analysis of group identification information of respective ones of the first and second

Appl. No. 10/774,146
Reply to Office Action of December 14, 2005

groups. Numerous limitations of claim 29 are not disclosed nor suggested by the prior art and claim 29 is allowable for at least this reason.

As mentioned above, and in accordance with the CFR and MPEP, Applicants respectfully request issuance of a *non-final Action* to cure the deficiencies of the rejection of claim 29 if claim 29 is not allowed so Applicants may appropriately respond.

The claims which depend from independent claim 29 are in condition for allowance for the reasons discussed above with respect to the independent claim as well as for their own respective features which are neither shown nor suggested by the cited art.

Referring to claim 32, paragraph 0005 of Lin fails to disclose or suggest the claimed medium comprising executable instructions configured to cause processing circuitry of the reader to *select one of a plurality of different search procedures* and claim 32 is allowable for this reason. Further, paragraph 0005 fails to teach the selection *using accessed information regarding devices which may be within the communications range of the reader* as claimed. Claim 32 is allowable for this additional reason. Paragraph 0005 also fails to disclose or suggest the claimed medium comprising executable instructions configured to cause processing circuitry of the reader to *identify unidentified ones of the devices using the selected one of the search procedures* as additionally positively claimed. Claim 32 is allowable for these numerous reasons.

As mentioned above, and in accordance with the CFR and MPEP, Applicants respectfully request issuance of a *non-final Action* to cure the deficiencies of the rejection of claim 32 if claim 32 is not allowed so Applicants may appropriately respond.

Appl. No. 10/774,146
Reply to Office Action of December 14, 2005

The claims which depend from independent claim 32 are in condition for allowance for the reasons discussed above with respect to the independent claim as well as for their own respective features which are neither shown nor suggested by the cited art.


Applicants hereby add new claims 35-40 which are supported at least by Fig. 1 and associated specification teachings of the originally-filed application.

Applicants respectfully request allowance of all pending claims.

The Examiner is requested to phone the undersigned if the Examiner believes such would facilitate prosecution of the present application. The undersigned is available for telephone consultation at any time during normal business hours (Pacific Time Zone).

Respectfully submitted,

Dated: 3/14/06

By: 
James D. Shaurette
Reg. No. 39,883